

IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

CWP NO. 9282 of 2004

DATE OF DECISION : 9.11.2006

Dr.Sahib Singh chandna

.....PETITIONER

VERSUS

State of Haryana and others.

.....RESPONDENTS

CORAM: HON'BLE MR. JUSTICE M.M.KUMAR
HON'BLE MR. JUSTICE M.M.S.BEDI

PRESENT: Mr.Pankaj Maini, Advocate for the petitioner.

Mr.Harish Rathee,Sr.DAG, Hry. for respondents 1 to 3

Mr.HN Mehtani, Advocate for respondent No.4

M.M.KUMAR,J.

The prayer made in the writ petition is that the selection of respondent No.5 to the post of Assistant Director (Serology) be set aside as per the result declared and published in the English daily 'The Tribune' on 8.6.2004. The other prayer made is for issuance of a direction to the respondents to consider the petitioner from retrospective date of 1983-84 for promotion to the post of Senior Scientific Assistant and after granting him the promotion as Senior Scientific Assistant he be considered for promotion three years thereafter as Senior Scientific Officer and after five years he be

considered for the post of Assistant Director (Serology) when the post became available on 31.3.2003.

At the out set learned counsel for the petitioner has pointed out that respondent No.5, who was duly selected has refused to join on the post of Assistant Director (Serology) and, therefore, the writ petition with regard to the above mentioned prayer has been rendered infructuous. He further states that with regard to the other relief, he may be permitted to withdraw the writ petition with liberty to file a fresh one. The aforementioned statement made by the learned counsel for the petitioner with regard to the first prayer has not been disputed but with regard to the prayer for issuance of a direction to grant the petitioner retrospective promotion has been disputed.

In view of the above, we dismiss the writ petition as having been rendered infructuous with regard to the prayer for quashing selection of respondent No.5. However, with regard to the other prayer, we are of the firm view that no relief to the petitioner could be granted because the retrospective promotion has been sought w.e.f. 1983-84 on the basis of recommendation made by the Departmental promotion Committee and the consequential benefits, firstly on the post of Senior Scientific Assistant, then on the post of Senior Scientific Officer and then for promotion to the post of Assistant Director (Serology). Even a civil suit in respect of the aforementioned relief would not be competent as the issue has been raised long after a period of 3 years. It is well settled that the period of limitation provided for filing a civil suit can be imported in the filing of the writ petition as well. In that regard reliance may be placed on a Constitution

Bench judgment of the Hon'ble Supreme Court in the case of **State of M.P. vs Bhai Lal Bhai, AIR 1964 SC 1006.**

Dismissed.

(M.M.KUMAR)

JUDGE

November 9 ,2006
TSM

(M.M.S.BEDI)
JUDGE